

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FILED

UNITED STATES DISTRICT COURT, W.D.N.Y.

BUSINESSES FOR A BETTER NEW YORK, et al.

v.

Plaintiffs,

ORDER
06-CV-669A

LINDA ANGELLO, in her official capacity as
Commissioner of Labor for the State of New York,
et al.

Defendants.

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1). On December 12, 2006, the defendants filed a motion to dismiss the complaint for failure to state a cause of action. On May 31, 2007, Magistrate Judge McCarthy filed a Report and Recommendation recommending that the motion to dismiss be granted.

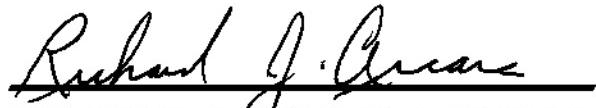
Plaintiffs filed objections to Magistrate Judge McCarthy's Report and Recommendation. In addition, the Court granted leave to the National Federation of Independent Business Legal Foundation to file an *amicus curiae* brief in support of the plaintiffs' objections. The *amicus curiae* brief was filed on July 31, 2007. Defendants filed a brief in opposition to the plaintiffs' objections on August 30, 2007, and the Court heard oral argument on September 20, 2007.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo*

determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review of the Report and Recommendation, and after reviewing the submissions of the parties and the *amicus curiae* brief by the National Federation of Independent Business Legal Foundation, the Court denies the objections and adopts the Report and Recommendation.

Accordingly, for the reasons stated by Magistrate Judge McCarthy in his Report and Recommendation, the defendants' motion to dismiss the complaint is granted. The Clerk of the Court shall take all steps necessary to close the case.

IT IS SO ORDERED.


Richard J. Arcara
HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: September 28, 2007